

Matthew John Matagrano  
04A5883  
Wende Correctional Facility  
3040 Wende Rd Po. Box 1187  
Alden, N.Y. 14004-1187

May 7, 2007

Hon. Randolph F. Treese  
United States Magistrate Judge  
United States District Court  
Northern District of New York  
Po. Box 7367 100 S. Clinton Street  
Syracuse, N.Y. 13261-7367

Re: Matagrano v. Miles, et al.;  
NONY, 05-CV-1459 (DNH) (RFT)

Dear Judge Treese:

Please accept this letter in  
Further Support of plaintiff's pro-se motion to Supplement  
the Second Amended Complaint, (docket no. 47), Scheduled  
as returnable before you on May 29, 2007.

My understanding of Rule 15(d)  
of the Federal Rules of Civil Procedure is that a party  
may Supplement a pleading by filing a Motion seeking  
leave to Supplement, a Supporting Affidavit, and  
a proposed Supplement, and numbering sequentially  
after the pleading to be Supplemented. In the affidavit  
in support I clearly stated that I was not seeking

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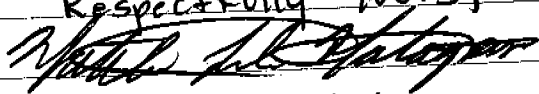
to amend the pleading, However, was seeking to Supplement the Second Amended Complaint with what I allege to be further violations of my constitutional rights. I further stated that I was not changing any party, Jurisdiction Statement or Cause of action statement.

The Second Amended Complaint (Docket No. 13) was docketed by the Court on June 15, 2006 (Signed by plaintiff on June 12, 2006 before a Notary public), the Proposed Supplemental Complaint begins to cover allegations on June 19, 2006. The allegations contained in the proposed Supplemental Complaint are a continuation of the pleading in this action not an amendment.

Defendant's in their opposition Focus on amending a pleading, this is not what Rule 15 Cd) of the F.R.C.P. allows. The proposed supplemental Complaint is a continuation against the parties already named in this action.

Thus, plaintiff respectfully requests the Court to grant the relief requested in the Motion to Supplement the Pleading.

Thank you for your consideration in this matter.

Respectfully Yours,  
  
Matthew John Matagrano  
Plaintiff Pro- se

AFFIRMATION OF SERVICE

STATE OF NEW YORK)


COUNTY OF ERIE)

I, Matthew John Matagrano, declare pursuant to 28 U.S.C. Section 1746 under the penalties of perjury that:

On the 7<sup>th</sup> day of May, 2007 I mailed a true and exact copy of the letter enclosed herein to:

Senta B. Siuda  
Assistant Attorney General  
Syracuse Regional Office  
615 Erie Blvd. West, Suite 102  
Syracuse, N.Y. 13204  
(Counsel for defendants)

Dated: May 7, 2007  
Alden, N.Y.

Respectfully Submitted,  
  
Matthew John Matagrano  
#04A5883  
Plaintiff Pro-se  
Wende Corr. Fac.  
3040 Wende Rd. Po. Box 1187  
Alden, N.Y. 14004-1187